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EXAMINER

CHANKONG, DOHM

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS M. CAMENS

Appeal 2008-004904
Application 09/821,176
Technology Center 2400

Decided: August 7, 2009

Before HOWARD B. BLANKENSHIP, JAY P. LUCAS, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

Appellant's invention is related to a distributed system for accessing and controlling a multiplicity of devices (Abstract). A master control device comprises a peer interface having an embedded web server and host software (Spec. 6:1-4, 6:17-24; Figure elements 10, 12, 14, 19). A plurality of linked devices communicate via a network separate from the internet, and are controlled by the embedded web server of the master control device (Spec. 6:17-24; Figure elements 21, 22, 23). The plurality of linked devices each comprise an interface that communicates with the peer interface module of the master control device allowing control of each linked device by the embedded web server through the interface (Spec. 6:17-24; Figure elements 15, 16, 17). A web browser is configured to access the master control device and allow the web browser to control the plurality of linked devices through the master control device and directly receive data from each of the plurality of linked devices (Spec. 7:21-24; Figure elements 25, 26, 27).

Representative Claim

1. A peer distributed, embedded web server system for accessing and controlling a multiplicity of devices, comprising:
 - a master control device comprising an embedded web server, peer interface module, and host software;
 - a plurality of linked devices that communicate with, and that are controlled by, said embedded web server of said master control device, said plurality of linked devices each comprising an interface

with a network separate from the internet that communicates with the peer interface module of said master control device to be controlled by said embedded web server; and

means for providing a user operated web browser for communicating with said master control device in order to access said plurality of linked devices, wherein said user operated web browser controls said plurality of linked devices through said master control device and said user operated web browser receives data directly from said plurality of linked devices that have been selected.

Prior Art

Namma	6,182,116 B1	Jan. 30, 2001
Kimmel	6,281,790 B1	Aug. 28, 2001

Examiner's Rejections

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Namma and Kimmel.

Claim Groupings

Based on Appellant's arguments in the Appeal Brief, we will decide the appeal on the basis of claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

Has Appellant shown that the Examiner erred in finding that the combination of Namma and Kimmel teaches controlling linked devices through a peer interface module in a peer distributed, embedded web server system?

FINDINGS OF FACT

Namma

1. Namma discloses a plurality of servers that can transfer live video data from respective video cameras via the Internet, and a browser enabled to receive the streams of video data and generate displayed video images (Fig. 9; col. 21, ll. 9-15).

2. Server 91 includes a camera control section 916 for receiving respective streams of video data produced by the video cameras and acquired via Internet connections from corresponding servers 92 and 93 (Fig. 9; col. 21, ll. 23-30).

3. The camera control section 916 also receives video camera control commands from browser 94 and transfers the commands to the appropriate servers (Fig. 9; col. 21, ll. 30-34).

4. The server 91 includes a stored camera name URL linkage file which relates respective video camera names to corresponding URLs that can be utilized to send operating commands for controlling the respective video cameras (col. 21, ll. 35-43).

5. The browser 94 includes a camera operation designation section 947 which enables a user to input operating commands for controlling each of the video cameras, which might for example include commands for activating the cameras or panning the cameras in a desired direction (Fig. 9; col. 21, ll. 55-62).

6. A command is transferred from communication section 11 of browser 94 to server 91. A connection to server 92 is established by the data

acquisition section 14, and the command is sent to server 92. (*See* col. 22, l. 48 to col. 23, l. 18).

PRINCIPLES OF LAW

Claim Interpretation

During examination, claims are to be given their broadest reasonable interpretation consistent with the specification, and the language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Amer. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted). The Office must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. *Id.* (citing *In re Bass*, 314 F.3d 575, 577 (Fed. Cir. 2002)).

Obviousness

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

ANALYSIS

Appellant contends that Namma does not teach a “distributed peer interface network,” because “[a] peer distributed network is defined by the

specification of the present invention on page 1, lines 20-26 as extending a system to allow a server via a single browser to access many devices” (Br. 8). However, Namma extends a system to allow a server via a single browser to access many devices (FF 1-5). Therefore, the recitation “peer distributed, embedded web server system” in the preamble of claim 1 includes within its purview the system of Namma that allows a server, via a single web browser, to access many devices -- even assuming that the preamble recitation is entitled to weight in the patentability analysis.

Appellant also contends that Namma does not teach a “peer interface module” (Br. 9). The Examiner finds that the data acquisition section 14 described by Namma is a peer interface module (Ans. 13). Appellant has provided no evidence or convincing argument to rebut this finding by the Examiner. At best, Appellant alleges by implication (Br. 9) that a “peer interface module” precludes all use of Hypertext Transport Protocol (HTTP), which appears to be contrary to the Summary of Invention in the Specification and to the instant Figure, containing reference numeral 25. We are not persuaded of error in the Examiner’s reading of the “peer interface module” limitation on Namma.

Appellant contends that Namma does not teach a peer-to-peer network. However, this term is not in claim 1 and Appellant provides insufficient basis for why the term must be read into the claim. Even so, the network of Namma connects server 91 to servers 92 and 93 (FF 2), which constitutes a server-to-server, or “peer-to-peer,” network.

Appellant contends that Namma does not teach controlling linked devices (Br. 10). We disagree and find that Namma teaches controlling linked devices (FF 5-6).

Appellant contends that the combination of Namma and Kimmel requires altering the principle of operation of Kimmel and has no reasonable expectation of success (Br. 10-12). These arguments are based on the premise that neither Namma nor Kimmel teaches controlling linked devices. However, because Namma teaches controlling linked devices (FF 5-6), the combination of Namma and Kimmel would predictably control linked devices without any change to the principle of operation of Kimmel.

Because Appellant has not demonstrated any error in the Examiner's rejection, we sustain the § 103(a) rejection of claims 1-20.

Appellant reproduces other limitations from the claims in the Appeal Brief, but alleges error in their rejection by relying on the same position regarding the supposed deficiencies of Namma and Kimmel that we have found untenable. Appellant's additional remarks are not separate arguments for patentability under the applicable rules. *See* 37 C.F.R. § 41.37(c)(1)(vii) ("A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim."). To the extent that any of Appellant's additional remarks in the Appeal Brief could be considered to rise to the level of providing arguments for separate patentability, we refer to the Examiner's findings in the Answer as a complete response to any such arguments.

CONCLUSION OF LAW

Appellant has failed to show error in the Examiner's finding that the combination of Namma and Kimmel teaches controlling linked devices through a peer interface module in a peer distributed, embedded web server system.

DECISION

The Examiner's rejection of claims 1-20 as being unpatentable under 35 U.S.C. § 103(a) based on Namma and Kimmel is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

msc

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